

State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

☞ Appendix A

**LRB BILL HISTORY RESEARCH APPENDIX**

☞ The drafting file for 2011 LRB-3604/P1 (For: Rep. Vos)

has been copied/added to the drafting file for

**2011 LRB-3645** (For: Rep. Vos)

☞ Are These “Companion Bills” ?? ... No



**RESEARCH APPENDIX -**  
**PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 01/10/2012 (Per: PJK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

**2011 DRAFTING REQUEST**

**Bill**

Received: **12/08/2011**

Received By: **pkahler**

Wanted: **Soon**

Companion to LRB:

For: **Robin Vos (608) 266-9171**

By/Representing: **Janine Hale**

May Contact:

Drafter: **pkahler**

Subject: **Real Estate - landlord/tenant**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Vos@legis.wisconsin.gov**

Carbon copy (CC:) to: **Fern.Knepp@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Disposition of tenant's personal property

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 12/12/2011	kfollett 12/13/2011		_____ _____			S&L
/P1			rschluet 12/13/2011	_____ _____	sbasford 12/13/2011		

FE Sent For:

<END>

**2011 DRAFTING REQUEST**

**Bill**

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/?	pkahler	1/1/13		_____			

FE Sent For:

<END>

**Kahler, Pam**

---

**From:** Hale, Janine  
**Sent:** Thursday, December 08, 2011 3:29 PM  
**To:** Kahler, Pam  
**Subject:** VOS DRAFT REQUEST: Disposition of personal property left by a tenant

Pam,

Rep. Vos would like to request a bill draft that would do the following:

Substitute the entire section of WI Stat. s. 704.05(5) with the following language:

***704.05(5): DISPOSITION OF PERSONAL PROPERTY LEFT BY TENANT: If a tenant removes from the premises and leaves personal property, the landlord may presume that this personal property has been abandoned by the tenant, and the landlord may dispose of the personal property in the manner that the landlord, at its sole discretion, deems appropriate. The tenant is responsible for the costs associated with the disposition.***

This is a high priority draft for Rep. Vos so if I can request a "RUSH" to any extent possible, I would appreciate it.

Please let me know if you have questions.

Janine Hale

***Janine L. Hale***

Office of State Representative Robin Vos  
Co-Chair, Joint Committee on Finance  
309 East, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
janine.hale@legis.wi.gov  
608-266-9171  
1-888-534-0063

*first apply to new tenants  
(or new if lease has any provisions  
that conflict)*



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3604

PJK: [signature]

P1

LPS: request sheet  
Rt please

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(in 12-12)  
by 12-16, please

gen cat

- 1 AN ACT *relating to:* disposing of personal property that a tenant leaves
- 2 behind.

---

***Analysis by the Legislative Reference Bureau***

Current law provides that, if a tenant leaves behind personal property after moving out of the rental premises, the landlord may store the property without a lien and return it to the tenant; store the property with a lien for the cost of storage and give the tenant notice of the storage within ten days after the charges begin; or give the tenant notice that after 30 days the landlord intends to dispose of the property by sale or other appropriate means. If the landlord disposes of the property by sale, the landlord may deduct the costs of sale from the proceeds. The tenant has 60 days after the date of the sale to claim the remaining proceeds, and any proceeds not claimed by the tenant must be sent to the Department of Administration to be used for providing grants to agencies and shelter facilities for the homeless. Current law allows the tenant or any person with a security interest in the property to redeem the property before the landlord disposes of it or enters into a contract for its disposal by paying the landlord's costs for removal, storage, disposition, and arranging for the sale, of the property

This bill eliminates the procedures under current law for disposing of personal property that a tenant leaves behind and provides that, in the absence of actual notice to the contrary, the landlord may presume that the personal property has been abandoned and may dispose of it in any manner that the landlord determines is appropriate. The tenant is responsible for any costs that the landlord incurs with respect to the property's disposal. As under current law, the tenant or a secured

party, however, may redeem the property before the landlord disposes of the property, or enters into a contract for its disposal, by paying all charges that the landlord has incurred with respect to the disposal.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 16.308 (2) (a) of the statutes, as affected by 2011 Wisconsin Act 32,  
2       is amended to read:

3       16.308 (2) (a) From the ~~appropriations~~ appropriation under s. 20.505 (7) (fm)  
4       and ~~(h)~~, the department shall award grants to eligible applicants for the purpose of  
5       supplementing the operating budgets of agencies and shelter facilities that have or  
6       anticipate a need for additional funding because of the renovation or expansion of an  
7       existing shelter facility, the development of an existing building into a shelter facility,  
8       the expansion of shelter services for homeless persons, or an inability to obtain  
9       adequate funding to continue the provision of an existing level of services.

History: 1985 a. 29, 276; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39 s. 1378; Stats. 1991 s. 16.352; 1993 a. 16, 374; 1995 a. 27; 1997 a. 27, 79; 2001 a. 16; 2003 a. 33 s. 159; Stats. 2003 s. 560.9808; 2011 a. 32 s. 3458m; Stats. 2011 s. 16.308.

10       **SECTION 2.** 16.308 (2) (b) (intro.) of the statutes, as affected by 2011 Wisconsin  
11       Act 32, is amended to read:

12       16.308 (2) (b) (intro.) The department shall allocate funds from the  
13       ~~appropriations~~ appropriation under s. 20.505 (7) (fm) and ~~(h)~~ for temporary shelter  
14       for homeless individuals and families as follows:

History: 1985 a. 29, 276; 1987 a. 27, 399; 1989 a. 31; 1991 a. 39 s. 1378; Stats. 1991 s. 16.352; 1993 a. 16, 374; 1995 a. 27; 1997 a. 27, 79; 2001 a. 16; 2003 a. 33 s. 159; Stats. 2003 s. 560.9808; 2011 a. 32 s. 3458m; Stats. 2011 s. 16.308.

15       **SECTION 3.** 20.505 (7) (h) of the statutes, as affected by 2011 Wisconsin Act 32,  
16       is amended to read:

17       20.505 (7) (h) *Funding for the homeless.* All moneys received from interest on  
18       real estate trust accounts under s. 452.13 for grants under s. 16.307, ~~and all moneys~~

- 1 received under s. 704.05 (5) (a) 2, for grants to agencies and shelter facilities for  
 2 homeless individuals and families under s. 16.308 (2) (a) and (b).

**History:** 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692, 9456 (3m); 1997 a. 237, 283; 1999 a. 5; 1999 a. 9 ss. 508 to 587d, 9401 (2zt), (2zu); 1999 a. 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104 ss. 21, 141; 2001 a. 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 ss. 10, 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 206 s. 23; 2003 a. 326; 2005 a. 25 ss. 389 to 429m, 2493, 2494, 2495, 9401, 9409; 2005 a. 60, 124, 141, 142, 253, 344, 414, 433; 2007 a. 20 ss. 323, 326, 516e to 542g, 9121 (6) (a); 2007 a. 226; 2009 a. 11, 28, 302, 318; 2011 a. 29, 32 ss. 406, 421m, 435m to 446m, 716m to 747c, 755, 759 to 766; s. 13.92 (2) (i).

\*\*\*\*NOTE: Instead of removing funding entirely from this appropriation for grants under s. 16.308 (2) (a) and (b), you could also fund those grants from the first funding source for the appropriation (moneys received from interest on real estate trust accounts under s. 452.13). Let me know if you would like to do that.

- 3 **SECTION 4.** 321.62 (15) (a) of the statutes is amended to read:  
 4 321.62 (15) (a) Notwithstanding ss. 704.05 (5) and s. 704.90, no person may  
 5 enforce a lien for storage of any household goods, furniture, or personal effects of a  
 6 service member during the period in which the service member is in state active duty  
 7 and for 90 days after the member's completion of state active duty, except as  
 8 permitted by a court order under par. (b).

**History:** 2001 a. 24, 105; 2003 a. 69; 2005 a. 149; 2007 a. 200 ss. 148 to 172; Stats. 2007 s. 321.62; 2009 a. 28.

- 9 **SECTION 5.** 704.05 (5) (title) of the statutes is amended to read:  
 10 704.05 (5) (title) ~~STORAGE OR DISPOSITION~~ DISPOSITION OF PERSONALTY LEFT BY  
 11 TENANT.

**History:** 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32.

- 12 **SECTION 6.** 704.05 (5) (a) (intro.) of the statutes is renumbered 704.05 (5) (a)  
 13 and amended to read:  
 14 704.05 (5) (a) *Procedure At landlord's discretion.* If a tenant removes from the  
 15 premises and leaves personal property, the landlord may do all of the following:  
 16 presume, in the absence of actual notice to the contrary, that the tenant has  
 17 abandoned the personal property and may dispose of the abandoned personal  
 18 property in any manner that the landlord, in its sole discretion, determines is

1 appropriate. The tenant is responsible for any costs that the landlord incurs with  
2 respect to disposition of the abandoned personal property.

History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32.

3 **SECTION 7.** 704.05 (5) (a) 1. of the statutes is repealed.

4 **SECTION 8.** 704.05 (5) (a) 2. of the statutes is repealed.

5 **SECTION 9.** 704.05 (5) (a) 3. of the statutes is repealed.

6 **SECTION 10.** 704.05 (5) (c) of the statutes is renumbered 704.05 (5) (b) and  
7 amended to read:

8 704.05 (5) (b) *Rights of 3rd persons.* The landlord's lien and power to dispose  
9 as provided by this subsection ~~apply~~ applies to any property left on the premises by  
10 the tenant, whether owned by the tenant or by others. ~~That lien has priority over any~~  
11 ~~ownership or security interest, and the~~ The power to dispose under this subsection  
12 applies notwithstanding any rights of others existing under any claim of ownership  
13 or security interest, but is subject to s. 321.62. The tenant or any secured party has  
14 the right to redeem the property at any time before the landlord has disposed of it  
15 or entered into a contract for its disposition by payment of the landlord's charges  
16 ~~under par. (a) for removal, storage, disposition and arranging for the sale~~ any  
17 expenses that the landlord has incurred with respect to the disposition of the  
18 property.

History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32.

\*\*\*\*NOTE: I retained but modified this paragraph to clarify the rights of a party with  
a security interest in the tenant's personal property. Ok?

19 **SECTION 11.** 704.05 (5) (d) of the statutes is repealed.

20 **SECTION 12.** 704.11 of the statutes is amended to read:

21 **704.11 Lien of landlord.** Except as provided in ss. 704.05 (5), 704.90 and  
22 779.43 or by express agreement of the parties, the landlord has no right to a lien on

as affected by  
2011 Wisconsin Act  
32,

add space



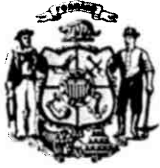
1 the property of the tenant; the common-law right of a landlord to distrain for rent  
2 is abolished.

History: 1979 c. 32 s. 92 (9); 1987 a. 23 s. 2.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to property left behind by a tenant under a tenancy  
5 commenced, or a lease entered into or renewed, on the effective date of this  
6 subsection.

7 (END)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3604/P1

PJK:kjfrs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1     **AN ACT to repeal** 704.05 (5) (a) 1., 704.05 (5) (a) 2., 704.05 (5) (a) 3. and 704.05  
2             (5) (d); **to renumber and amend** 704.05 (5) (a) (intro.) and 704.05 (5) (c); and  
3             **to amend** 16.308 (2) (a), 16.308 (2) (b) (intro.), 20.505 (7) (h), 321.62 (15) (a),  
4             704.05 (5) (title) and 704.11 of the statutes; **relating to:** disposing of personal  
5             property that a tenant leaves behind.

---

***Analysis by the Legislative Reference Bureau***

Current law provides that, if a tenant leaves behind personal property after moving out of the rental premises, the landlord may store the property without a lien and return it to the tenant; store the property with a lien for the cost of storage and give the tenant notice of the storage within ten days after the charges begin; or give the tenant notice that after 30 days the landlord intends to dispose of the property by sale or other appropriate means. If the landlord disposes of the property by sale, the landlord may deduct the costs of sale from the proceeds. The tenant has 60 days after the date of the sale to claim the remaining proceeds, and any proceeds not claimed by the tenant must be sent to the Department of Administration to be used for providing grants to agencies and shelter facilities for the homeless. Current law allows the tenant or any person with a security interest in the property to redeem the property before the landlord disposes of it or enters into a contract for its disposal by paying the landlord's costs for removal, storage, disposition, and arranging for the sale, of the property

This bill eliminates the procedures under current law for disposing of personal property that a tenant leaves behind and provides that, in the absence of actual

notice to the contrary, the landlord may presume that the personal property has been abandoned and may dispose of it in any manner that the landlord determines is appropriate. The tenant is responsible for any costs that the landlord incurs with respect to the property's disposal. As under current law, the tenant or a secured party, however, may redeem the property before the landlord disposes of the property, or enters into a contract for its disposal, by paying all charges that the landlord has incurred with respect to the disposal.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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4       ~~and (h)~~, the department shall award grants to eligible applicants for the purpose of  
5       supplementing the operating budgets of agencies and shelter facilities that have or  
6       anticipate a need for additional funding because of the renovation or expansion of an  
7       existing shelter facility, the development of an existing building into a shelter facility,  
8       the expansion of shelter services for homeless persons, or an inability to obtain  
9       adequate funding to continue the provision of an existing level of services.

10          SECTION 2. 16.308 (2) (b) (intro.) of the statutes, as affected by 2011 Wisconsin  
11       Act 32, is amended to read:

12          16.308 (2) (b) (intro.) The department shall allocate funds from the  
13       ~~appropriations~~ appropriation under s. 20.505 (7) (fm) ~~and (h)~~ for temporary shelter  
14       for homeless individuals and families as follows:

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1           20.505 (7) (h) *Funding for the homeless*. All moneys received from interest on  
2   real estate trust accounts under s. 452.13 for grants under s. 16.307, ~~and all moneys~~  
3   ~~received under s. 704.05 (5) (a) 2., for grants to agencies and shelter facilities for~~  
4   ~~homeless individuals and families under s. 16.308 (2) (a) and (b).~~

      \*\*\*\*NOTE: Instead of removing funding entirely from this appropriation for grants  
      under s. 16.308 (2) (a) and (b), you could also fund those grants from the first funding  
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5           SECTION 4. 321.62 (15) (a) of the statutes is amended to read:

6           321.62 (15) (a) Notwithstanding ~~ss. 704.05 (5) and s. 704.90~~, no person may  
7   enforce a lien for storage of any household goods, furniture, or personal effects of a  
8   service member during the period in which the service member is in state active duty  
9   and for 90 days after the member's completion of state active duty, except as  
10  permitted by a court order under par. (b).

11          SECTION 5. 704.05 (5) (title) of the statutes is amended to read:

12          704.05 (5) (title) ~~STORAGE OR DISPOSITION~~ DISPOSITION OF PERSONALTY LEFT BY  
13  TENANT.

14          SECTION 6. 704.05 (5) (a) (intro.) of the statutes is renumbered 704.05 (5) (a)  
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16          704.05 (5) (a) *Procedure At landlord's discretion*. If a tenant removes from the  
17  premises and leaves personal property, the landlord may ~~do all of the following:~~  
18  presume, in the absence of actual notice to the contrary, that the tenant has  
19  abandoned the personal property and may dispose of the abandoned personal  
20  property in any manner that the landlord, in its sole discretion, determines is  
21  appropriate. The tenant is responsible for any costs that the landlord incurs with  
22  respect to disposition of the abandoned personal property.

23          SECTION 7. 704.05 (5) (a) 1. of the statutes is repealed.

1       **SECTION 8.** 704.05 (5) (a) 2. of the statutes, as affected by 2011 Wisconsin Act  
2       32, is repealed.

3       **SECTION 9.** 704.05 (5) (a) 3. of the statutes is repealed.

4       **SECTION 10.** 704.05 (5) (c) of the statutes is renumbered 704.05 (5) (b) and  
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6       704.05 (5) (b) *Rights of 3rd persons.* The landlord's ~~lien and~~ power to dispose  
7       as provided by this subsection ~~apply~~ applies to any property left on the premises by  
8       the tenant, whether owned by the tenant or by others. ~~That lien has priority over any~~  
9       ~~ownership or security interest, and the~~ The power to dispose under this subsection  
10      applies notwithstanding any rights of others existing under any claim of ownership  
11      or security interest, but is subject to s. 321.62. The tenant or any secured party has  
12      the right to redeem the property at any time before the landlord has disposed of it  
13      or entered into a contract for its disposition by payment of ~~the landlord's charges~~  
14      ~~under par. (a) for removal, storage, disposition and arranging for the sale any~~  
15      ~~expenses that the landlord has incurred with respect to the disposition of the~~  
16      ~~property.~~

      \*\*\*\*NOTE: I retained but modified this paragraph to clarify the rights of a party with  
      a security interest in the tenant's personal property. Ok?

17      **SECTION 11.** 704.05 (5) (d) of the statutes is repealed.

18      **SECTION 12.** 704.11 of the statutes is amended to read:

19      **704.11 Lien of landlord.** Except as provided in ss. ~~704.05 (5)~~, 704.90 and  
20      779.43 or by express agreement of the parties, the landlord has no right to a lien on  
21      the property of the tenant; the common-law right of a landlord to distrain for rent  
22      is abolished.

23      **SECTION 13. Initial applicability.**

4 (END)